First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1468

AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-26-13-2, AS AMENDED BY P.L.98-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this chapter:

"Administering" means the direct application of a drug to the body of a person by injection, inhalation, ingestion, or any other means.

"Board" means the Indiana board of pharmacy.

"Controlled drugs" are those drugs on schedules I through V of the Federal Controlled Substances Act or on schedules I through V of IC 35-48-2.

"Counseling" means effective communication between a pharmacist and a patient concerning the contents, drug to drug interactions, route, dosage, form, directions for use, precautions, and effective use of a drug or device to improve the therapeutic outcome of the patient through the effective use of the drug or device.

"Dispensing" means issuing one (1) or more doses of a drug in a suitable container with appropriate labeling for subsequent administration to or use by a patient.

"Drug" means:

(1) articles or substances recognized in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia of the United States, or any

supplement to any of them;

(2) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(3) articles other than food intended to affect the structure or any function of the body of man or animals; or

(4) articles intended for use as a component of any article specified in subdivisions (1) through (3) and devices.

"Drug order" means a written order in a hospital or other health care institution for an ultimate user for any drug or device, issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, which is immediately reduced to writing by the pharmacist, registered nurse, or other licensed health care practitioner authorized by the hospital or institution. The order shall contain the name and bed number of the patient; the name and strength or size of the drug or device; unless specified by individual institution policy or guideline, the amount to be dispensed either in quantity or days; adequate directions for the proper use of the drug or device when it is administered to the patient; and the name of the prescriber.

"Drug regimen review" means the retrospective, concurrent, and prospective review by a pharmacist of a patient's drug related history that includes the following areas:

(1) Evaluation of prescriptions or drug orders and patient records for drug allergies, rational therapy contradictions, appropriate dose and route of administration, appropriate directions for use, or duplicative therapies.

(2) Evaluation of prescriptions or drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions.

(3) Evaluation of prescriptions or drug orders and patient records for adverse drug reactions.

(4) Evaluation of prescriptions or drug orders and patient records for proper utilization and optimal therapeutic outcomes.

"Drug utilization review" means a program designed to measure and assess on a retrospective and prospective basis the proper use of drugs.

"Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article including any component part or accessory, which is:

(1) recognized in the official United States Pharmacopoeia, official National Formulary, or any supplement to them;

(2) intended for use in the diagnosis of disease or other conditions or the cure, mitigation, treatment, or prevention of disease in man

or other animals; or

(3) intended to affect the structure or any function of the body of man or other animals and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

"Electronic data intermediary" means an entity that provides the infrastructure that connects a computer system or another electronic device used by a prescribing practitioner with a computer system or another electronic device used by a pharmacy to facilitate the secure transmission of:

(1) an electronic prescription order;

(2) a refill authorization request;

(3) a communication; and

(4) other patient care information;

between a practitioner and a pharmacy.

"Electronic signature" means an electronic sound, symbol, or process:

(1) attached to or logically associated with a record; and

(2) executed or adopted by a person;

with the intent to sign the record.

"Electronically transmitted" or "electronic transmission" means the transmission of a prescription in electronic form. The term does not include the transmission of a prescription by facsimile.

"Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

"Legend drug" has the meaning set forth in IC 16-18-2-199.

"License" and "permit" are interchangeable and mean a written certificate from the Indiana board of pharmacy for the practice of pharmacy or the operation of a pharmacy.

"Nonprescription drug" means a drug that may be sold without a prescription and that is labeled for use by a patient in accordance with state and federal laws.

"Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, or municipality, or a legal representative or agent, unless this chapter expressly provides otherwise.

"Practitioner" has the meaning set forth in IC 16-42-19-5.

"Pharmacist" means a person licensed under this chapter.

"Pharmacist intern" means a person who is:

(1) permitted by the board to engage in the practice of pharmacy while under the personal supervision of a pharmacist and who is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist;

(2) a graduate of an approved college of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee Certificate and who is permitted by the board to obtain practical experience as a requirement for licensure as a pharmacist;

(3) a qualified applicant awaiting examination for licensure; or

(4) an individual participating in a residency or fellowship program.

"Pharmacy" means any facility, department, or other place where prescriptions are filled or compounded and are sold, dispensed, offered, or displayed for sale and which has as its principal purpose the dispensing of drug and health supplies intended for the general health, welfare, and safety of the public, without placing any other activity on a more important level than the practice of pharmacy.

"The practice of pharmacy" or "the practice of the profession of pharmacy" means a patient oriented health care profession in which pharmacists interact with and counsel patients and with other health care professionals concerning drugs and devices used to enhance patients' wellness, prevent illness, and optimize the outcome of a drug or device, by accepting responsibility for performing or supervising a pharmacist intern or an unlicensed person under section 18(a)(4) of this chapter to do the following acts, services, and operations:

(1) The offering of or performing of those acts, service operations, or transactions incidental to the interpretation, evaluation, and implementation of prescriptions or drug orders.

(2) The compounding, labeling, administering, dispensing, or selling of drugs and devices, including radioactive substances, whether dispensed under a practitioner's prescription or drug order or sold or given directly to the ultimate consumer.

(3) The proper and safe storage and distribution of drugs and devices.

(4) The maintenance of proper records of the receipt, storage, sale, and dispensing of drugs and devices.

(5) Counseling, advising, and educating patients, patients' caregivers, and health care providers and professionals, as necessary, as to the contents, therapeutic values, uses, significant problems, risks, and appropriate manner of use of drugs and devices.

(6) Assessing, recording, and reporting events related to the use of drugs or devices.

(7) Provision of the professional acts, professional decisions, and professional services necessary to maintain all areas of a patient's pharmacy related care as specifically authorized to a pharmacist under this article.

"Prescription" means a written order or an order transmitted by other means of communication from a practitioner to or for an ultimate user for any drug or device containing:

(1) the name and address of the patient;

(2) the date of issue;

(3) the name and strength or size (if applicable) of the drug or device;

(4) the amount to be dispensed (unless indicated by directions and duration of therapy);

(5) adequate directions for the proper use of the drug or device by the patient;

(6) the name of the practitioner; and

(7) if the prescription:

(A) is in written form, the signature of the practitioner; or

(B) is in electronic form, the electronic signature of the practitioner.

"Qualifying pharmacist" means the pharmacist who will qualify the pharmacy by being responsible to the board for the legal operations of the pharmacy under the permit.

"Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records, or other written indicia, documents, or objects which are used in any way in connection with the purchase, sale, or handling of any drug or device.

"Sale" means every sale and includes:

(1) manufacturing, processing, transporting, handling, packaging, or any other production, preparation, or repackaging;

(2) exposure, offer, or any other proffer;

(3) holding, storing, or any other possession;

(4) dispensing, giving, delivering, or any other supplying; and

(5) applying, administering, or any other using.

SECTION 2. IC 25-26-13-31.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 31.2. (a) A pharmacist may administer an immunization to an individual under a drug order or prescription.**

(b) A pharmacist may administer an immunization for influenza to a group of individuals under a drug order, under a prescription, or according to a protocol approved by a physician if the following requirements are met:

(1) The physician specifies in the drug order, prescription, or protocol the group of individuals to whom the immunization may be administered.

(2) The physician who writes the drug order, prescription, or protocol is licensed in Indiana and not employed by a pharmacy.

(3) The pharmacist who administers the immunization is responsible for notifying, not later than fourteen (14) days after the pharmacist administers the immunization, the physician who authorized the immunization and the individual's primary care physician that the individual received the immunization.

(4) If the physician uses a protocol, the protocol may apply only to an individual or group of individuals who are at least:

(A) fourteen (14) years of age but less than eighteen (18) years of age, if the pharmacist receives the consent of a parent or legal guardian, and the parent or legal guardian is present at the time of immunization; or

(B) eighteen (18) years of age.

(c) If the state department of health or the department of homeland security determines that an emergency exists, a pharmacist may administer any immunization in accordance with:

(1) the requirements of subsection (b)(1) through (b)(3); and

(2) any instructions in the emergency determination.

SECTION 3. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "state department" refers to the state department of health established by IC 16-19-1-1.**

(b) The state department shall, in consultation with health care providers, evaluate the current immunization data registry system under IC 16-38-5 and determine ways to make the registry easier for health care providers to report to and use.

(c) Not later than November 1, 2008, the state department shall orally report to the health finance commission established by IC 2-5-23-3 concerning the state department's progress under this SECTION. The report must include any recommendations of the state department to make the immunization data registry easier for health care providers to report to and use.

(d) This SECTION expires December 31, 2008.

SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board" refers to the Indiana board of pharmacy created by IC 25-26-13-3.**

(b) The board shall study and make findings on the issue of the application of technology in the dispensing of drugs, including the reliance on bar code technology in long term care pharmacies. The study must include the review of the use of pharmacy technicians when using bar code technology.

(c) Not later than November 1, 2007, the board shall report to the health finance commission established by IC 2-5-23-3 and the legislative council regarding the board's findings under this SECTION. The report to the legislative council must be in an electronic format under IC 5-14-6.

(d) This SECTION expires December 31, 2008.

SECTION 5. [EFFECTIVE JULY 1, 2007] **(a) Before January 1, 2008, the Indiana board of pharmacy, in consultation with the medical licensing board of Indiana, shall adopt rules under IC 4-22-2 concerning the qualifications, protocols, and record keeping requirements for a pharmacist to administer immunizations under IC 25-26-13-31.2, as added by this act. The rules must include the following requirements:**

(1) The pharmacist must have completed an accredited training program.

(2) The pharmacist must be certified in cardiopulmonary resuscitation (CPR).

(3) The pharmacist must be prohibited from delegating the administration of the immunization to another person.

(4) The pharmacist must report adverse events.

(5) The pharmacist may report the immunization of each individual to the immunization data registry maintained by the state department under IC 16-38-5.

(6) A pharmacist may not be required to administer an immunization or complete the accredited training program if the pharmacist chooses not to administer any immunization.

(b) This SECTION expires July 1, 2008.

SECTION 6. **An emergency is declared for this act.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____